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Fourth report of the Secretary-General on the United Nations Integrated Office in Burundi

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 1791 (2007), by which the Council extended the mandate of the United Nations Integrated Office in Burundi (BINUB) and requested me to keep it regularly informed of progress in the implementation of the resolution. The report provides an update on major developments in Burundi since my previous report, of 15 May 2008 (S/2008/330), until 10 November.

II. Major developments

A. Peace process

2. The peace process saw marked progress in the beginning of the reporting period but subsequently drifted towards a deepening stalemate as the 31 December 2008 deadline for the implementation of the Comprehensive Ceasefire Agreement approached. The return to Bujumbura on 16 May of a delegation of the Parti pour la Libération du Peuple Hutu-Forces Nationales de Libération (Palipehutu-FNL), led by its spokesperson, Pasteur Habimana, provided a new impetus to the implementation of the Comprehensive Ceasefire Agreement signed in September 2006. The Political Directorate and the Joint Verification and Monitoring Mechanism both convened on 19 May for the first time in Bujumbura in 2008. On 26 May, the Government and Palipehutu-FNL issued a joint declaration in which they agreed to put an end to the hostilities that had erupted in April. The return of the Palipehutu-FNL Chairman, Agathon Rwasa, to Bujumbura on 30 May further strengthened the credibility of the peace process.

3. On 2 June, Government and Palipehutu-FNL delegates to the Joint Verification and Monitoring Mechanism adopted a joint operational plan outlining the demobilization and integration calendar for Palipehutu-FNL combatants. The European Commission and the Government of Switzerland agreed to provide to support an exceptional €420,000 feeding programme for Palipehutu-FNL combatants. The feeding programme was intended to curb criminality and encourage the movement of combatants into designated assembly areas for the commencement of disarmament, demobilization and reintegration.

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4. In a letter dated 4 June to the Chairman of the Political Directorate, Palipehutu-FNL Chairman Rwasa outlined his priorities as follows: (a) the release of political and war prisoners; (b) political accommodation and military integration; (c) amendment of the Constitution to permit the transformation of Palipehutu-FNL into a political party under its current name; (d) the rewriting of the history of Burundi; and (e) the establishment of a "truth, forgiveness and reconciliation commission".

5. In June, the Political Directorate, including representatives of the Government and Palipehutu-FNL, met with the Group of Special Envoys for Burundi in Magaliesberg, South Africa. At that meeting, the parties and the Group of Special Envoys issued the Magaliesberg Communiqué, in which the Government and Palipehutu-FNL reaffirmed their commitment to seek common and comprehensive solutions to the impediments that had stymied past efforts towards the implementation of the peace process. The South African Parliament decided to extend its contribution of troops to the African Union Special Task Force in Burundi from 30 June to 31 December 2008.

6. After a number of delays, by 21 July about 2,100 Palipehutu-FNL elements had arrived at the first assembly area, in Rugazi commune, Bubanza Province. The Government publicly deplored the extremely low ratio of weapons to combatants and the absence of a list verifying the 21,000 combatants that Palipehutu-FNL claimed to have. Controversy ensued after Palipehutu-FNL Chairman Rwasa made public his letter of 27 July addressed to the South African Facilitator, Charles Nqakula, requesting that approximately half of all senior civilian and military positions in Government institutions be allocated to Palipehutu-FNL.

7. The above notwithstanding, the Joint Verification and Monitoring Mechanism achieved some progress on the issue of political prisoners with the conclusion of a national prison survey on 8 August, which identified 687 Palipehutu-FNL prisoners. Their cases have been referred to a joint Ministry of Justice/Palipehutu-FNL commission to confirm their eligibility for release.

8. On 18 August, the President of Burundi, Pierre Nkurunziza, and Palipehutu-FNL Chairman Rwasa met in the presence of the Facilitator and committed to biweekly closed-door meetings. At the same time, on 18 and 19 August, the President issued two decrees, establishing a commission to examine the combatant status of the alleged Palipehutu-FNL dissidents at Randa and Buramata communes, Bubanza Province, and officially recognizing them as Palipehutu-FNL deserters. This prompted Palipehutu-FNL, which had disowned the group, to publicly accuse the Government of sabotaging the peace process. Meanwhile, Palipehutu-FNL Chairman Rwasa sent a letter to the President on 26 August accusing the Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie (CNDD-FDD) of assassination plots against himself and other senior Palipehutu-FNL leaders.

9. Despite these tensions, the Palipehutu-FNL Chairman met the President in Ngozi on 29 August, accompanied by the Facilitator and the Political Directorate. Their meeting resulted in the Ngozi Declaration, in which the responsibility of both leaders in resolving outstanding issues was clarified. Among these issues, there were three that were judged as potentially inconsistent with the Constitution and on which the help of the Political Directorate was sought. These were: (a) recognition of Palipehutu-FNL as a political party under its current name; (b) participation of

Palipehutu-FNL as a parliamentary observer; and (c) accommodation of Palipehutu-FNL members in the executive branch of the Government.

10. On 17 September, the Palipehutu-FNL Chairman submitted a memorandum to the Political Directorate stating that his movement would not comply with demobilization requirements prior to being registered as a political party under its current name. He proposed to exempt Palipehutu-FNL from having to comply with the Constitution as it related to its name until after the 2010 elections, at which time a constitutional reform might be undertaken that would allow it to maintain its current name.

11. Separate Political Directorate meetings with President Nkurunziza and Palipehutu-FNL Chairman Rwasa on 26 September also confirmed that the leaders remained deadlocked on issues of political accommodation and on issues of military integration. On 14 October, the head of the Government delegation to the Joint Verification and Monitoring Mechanism stated that the national defence forces would intervene to protect the population if Palipehutu-FNL exactions continued. On 27 October, alleged Palipehutu-FNL sympathizers demonstrated in a number of provinces, blaming the Government for the lack of progress in the peace process. In response, the Government spokesperson for the Minister for Public Security warned that the Government would not tolerate such disturbances and accused Palipehutu-FNL of violating the Comprehensive Ceasefire Agreement.

12. Following a briefing by the Facilitator to the heads of State of the Regional Peace Initiative on 22 October on the stalemate in the implementation of the Comprehensive Ceasefire Agreement, a ministerial delegation, comprising the Minister for Foreign Affairs of Uganda, the Facilitator and a representative of the United Republic of Tanzania, conveyed messages from the Regional Peace Initiative to President Nkurunziza and Palipehutu-FNL Chairman Rwasa on 6 November. The messages were that the 31 December deadline for completing the implementation of the Comprehensive Ceasefire Agreement must be observed, that the Government must accommodate Palipehutu-FNL in national institutions in conformity with the law, that Palipehutu-FNL should spare no effort to send its combatants to assembly areas for the disarmament, demobilization and reintegration process and that Palipehutu-FNL must forego the ethnic connotation in its name. By 10 November, no progress had been seen. In a disturbing development, reports of both Palipehutu-FNL and Government defence forces taking up new military positions were confirmed, contributing to public fears in western provinces about the likelihood of renewed armed clashes.

B. Security situation

13. The overall security situation in Burundi saw some improvement during the period under review, following the cessation of large-scale hostilities between the Government and Palipehutu-FNL on 26 May. However, criminal activities perpetrated by alleged Palipehutu-FNL elements, former combatants and members of the security forces, as well as unidentified armed individuals, persisted throughout the country. These activities were characterized by grenade attacks, armed robberies, looting, ambushes and killings.

14. There were disquieting developments regarding the safety of United Nations personnel. On 7 July, two United Nations vehicles carrying BINUB staff members

were the targets of grenade attacks at two different locations in Bujumbura. One of the targeted vehicles was substantially damaged, but fortunately no one was injured. These incidents appear to be related to the grievances of former personnel of the United Nations Operation in Burundi. The Ministry of Foreign Affairs informed BINUB in late August that the Government had instructed all relevant services to investigate, prosecute the perpetrators and take action to prevent further attacks. Initial arrests were made and the investigation is ongoing.

C. Political developments

15. In my report of 15 May, I informed the Council about the recurrent internal political crises that had paralysed the work of both the executive and the legislative branches of Government over the past year. That situation changed significantly during the reporting period, with the exclusion of 22 dissenting CNDD-FDD parliamentarians from the National Assembly.

16. The Constitutional Court ruled on 6 June that the continued presence in Parliament of the 22 dissident CNDD-FDD parliamentarians was unconstitutional because they no longer represented any elected political group or party. Their replacement by parliamentarians loyal to the CNDD-FDD re-established the ruling party's simple majority in the National Assembly. As a result, legislative activities resumed in the Assembly and an unprecedented number of laws were adopted. However, the political opposition and some international observers questioned the Constitutional Court's ruling and raised questions about the independence of the judiciary. The dissenting parliamentarians addressed letters to me in June and September expressing concern for their safety and also questioning the legality of the ruling.

17. On 18 June, President Nkurunziza established by decree the Permanent National Independent Electoral Commission. Burundi's political actors welcomed the creation of the Electoral Commission but deplored the lack of consultation. Opposition parties expressed particular concern about the upcoming selection process of its members and demanded to be consulted. The members of the Commission must be approved by Parliament.

18. In July, two of the 22 former CNDD-FDD parliamentarians who had been removed from their seats were arrested on allegations of threatening State security. A third was arrested on 1 October on charges of insulting and assaulting a magistrate. Several civil society and media representatives were also arrested and/or summoned to the police between August and October. Over 200 civil society organizations issued a memorandum on 5 September to denounce intimidation against members of civil society and the media. They also expressed concern about what they regarded as pre-electoral campaigning and poor functioning of the Government.

19. On 6 October, the Ministry of the Interior issued an order regulating meetings and demonstrations of political parties and other associations. This order included implementing measures of a decree dating from 1991. The political opposition protested, claiming that the order restricted freedom of assembly. On 15 October, the ruling party requested that the Minister of the Interior consult with political parties on the order's provisions. Between September and early November, a number of members of the political opposition were arrested, including members of

the Union for Peace and Development-Zigamibanga and the Mouvement pour la sécurité et la démocratie (which has now changed its name to Mouvement pour la solidarité et la démocratie). They were arrested on charges of slandering the head of State and holding illegal political meetings. These arrests triggered strong reactions from civil society and the international community.

20. The second parliamentary plenary session, which took place from 2 June to 29 August, was productive, with the adoption of 20 laws, including two that related directly to peace consolidation: the laws on the establishment of the National Security Council and the National Council on Unity and Reconciliation.

21. Two new political parties led by prominent political actors were accredited in July and August respectively: the dissident Front pour la démocratie au Burundi (FRODEBU)-Nyakuri party led by the former National Assembly President, Jean Minani, and the Alliance pour la démocratie et le renouveau, led by former senior CNDD-FDD member and former Second Vice-President, Alice Nzomukunda.

D. Regional aspects

22. On 21 June, the Pact on Security, Stability and Development in the Great Lakes Region entered into force following ratification by eight of the 11 core countries of the International Conference on the Great Lakes Region. Under the terms of the Pact, Burundi and the other Governments of the region committed themselves to address the key security, governance, development, humanitarian and social challenges from a regional perspective.

23. Following its recent accession to the East African Community, Burundi was granted, on 29 August, a special status within the Community allowing for the gradual removal of customs duties imposed on its goods and services. The East African Community High-level Task Force to Negotiate the East African Community Common Market Protocol held its third round of negotiations in Bujumbura from 20 to 27 September. The protocol is expected to be concluded by December 2008.

24. The resumption of heavy fighting in the eastern part of the Democratic Republic of the Congo in late August raised concern about possible recruitment by Congolese armed groups among the Burundian population, including demobilized troops and combatants. The Government has established a commission to investigate this matter.

E. Activities related to the Peacebuilding Commission

25. On 23 June, the Government submitted its first biannual progress report on the implementation of the Strategic Framework for Peacebuilding in Burundi. The report included a set of recommendations that took into account the concerns of all relevant stakeholders. The Peacebuilding Commission welcomed the report and issued a series of new recommendations, while also identifying specific challenges, including addressing the stalemate in the implementation of the Comprehensive Ceasefire Agreement, human rights violations and high levels of unemployment and poverty.

26. From 21 to 24 October, a delegation led by the new Chairman of the Peacebuilding Commission's Burundi configuration, Ambassador Anders Lidén (Sweden), visited Burundi. The delegation discussed with the Government and other stakeholders the next steps in the country's peacebuilding process and, in particular, ways to enhance their partnership. The delegation also discussed a possible role for the Peacebuilding Commission in assisting the country to create a conducive environment for the holding of free, fair and peaceful elections in 2010; to mobilize resources to support the peace process, including for any urgent disarmament, demobilization and reintegration needs; and to help address challenges related to the reintegration of Burundian returnees and refugees from neighbouring countries.

III. Peace consolidation and United Nations system integration

27. Further integration in the work of the United Nations team in Burundi has been achieved at both the strategic and programmatic levels by continuing to leverage the complementary roles entrusted to my Executive Representative, who also serves as the Resident Coordinator, Humanitarian Coordinator, United Nations Development Programme (UNDP) Resident Representative and Designated Official.

28. The United Nations system in Burundi has integrated the political, security and human right tasks mandated by the Security Council with the humanitarian, early recovery and development activities of the various United Nations organizations present in Burundi by focusing on those activities that consolidate peace. Those tasks have been articulated in the United Nations Integrated Peacebuilding Support Strategy (an expansion of the United Nations Development Assistance Framework), which has guided the peace consolidation efforts of BINUB and the rest of the United Nations system for the past two years in support of the Government's priorities. During the period under review, this integrated approach helped to enhance the impact of individual and collective support to the Government in areas such as food insecurity, access to land, especially for returnees and the Burundians expelled from the United Republic of Tanzania, and empowerment of women and youth for peace consolidation. Funds received from the Multi-Donor Peacebuilding Trust Fund helped to finance these and other critical peace consolidation priorities.

29. In order to consolidate integration, the United Nations integrated management team and the Government of Burundi initiated a strategic planning exercise during a retreat in October. The exercise was aimed at defining the strategic priorities for the United Nations for the period 2010-2014, such as: (a) support to national capacities for strategic planning and coordination; (b) democratic governance, including the electoral process and related institutions; (c) transitional justice and human rights; and (d) community recovery, with a focus on those populations most affected by the war. The retreat established a joint Government-United Nations steering team that will lead the rest of the planning exercise, taking into account the comparative advantages of the United Nations and its alignment with other key partners. These four priorities reflect the commitment of the United Nations to support, in an integrated manner, the outstanding peace consolidation challenges.

Democratic governance

30. During the reporting period, the governance areas that presented some of the biggest challenges included the functioning of institutions, the establishment of an

environment conducive to dialogue and corruption. In accordance with its mandate, BINUB carried out a number of activities to help improve national dialogue, strengthen Government and civil society capacities in the fight against corruption, support the functioning of Parliament and advance reform in public administration and decentralization.

31. In an effort to promote dialogue among Burundian stakeholders, BINUB initiated on 7 July a series of dialogue workshops in all 17 provinces with some 1,000 participants in the context of the Peacebuilding Fund project aimed at creating frameworks for dialogue. In addition, in order to continue strengthening national institutions, BINUB assisted the Ministry of Good Governance in establishing four out of nine planned "anti-corruption brigades"; provided technical assistance to the Ministry of Civil Service in developing a strategy for implementing reforms of the public administration; and assisted the Government in presenting a national decentralization policy paper and a three-year action plan to be validated by national and local officials, as well as representatives of civil society and the media.

Media

32. In an effort to build the capacity of the national media and the National Communication Council, BINUB provided training to journalists in ethics, media regulation, investigative journalism and communication techniques. Meanwhile, the relationship between the Government, the media and the National Communication Council experienced a setback following the arrest on 11 September of the editor of the news agency NetPress on charges of releasing false information about funds received by the President for his trip to China. On 23 September, the Council officially accused Burundian radio station Radio publique africaine of broadcasting false declarations involving senior Government officials. Subsequently, the radio station publicly acknowledged broadcasting incorrect reports on 5 October.

Security sector reform and disarmament, demobilization and reintegration

33. Notable advances were made towards the development of a sector-wide plan for security sector reform. On 31 August, President Nkurunziza approved a law adopted by Parliament creating the National Security Council, comprised of 17 members, in accordance with the Constitution. On 5 November, President Nkurunziza signed a decree appointing 9 of the 17 members of the National Security Council, including two bishops and two women. Non-appointed members include the President of the Republic, the First and Second Vice-Presidents and the Ministers of the Interior, Foreign Affairs, Public Security, Defence and Justice. The National Security Council is expected to assist in the development of a comprehensive national plan for security sector reform in order to coordinate reform of the police and the defence and intelligence services and to render them accountable to Parliament.

34. Regarding subsectoral reforms, on 3 June the Minister for Public Security unveiled a 10-year strategic development plan designed to transform the national police in Burundi into a modern and professional police force by 2017. The plan foresees the enhancement of police organizational structures and operational capacities, as well as augmentation of material assets. On the basis of a formal request, BINUB has agreed to assist in the formulation of a strategic reform plan for the national intelligence service. In addition, the midterm review of the 2006-2010

strategic development plan of the national defence forces was endorsed on 22 August by the Minister for National Defence.

35. On 23 June, the national intelligence service, in partnership with BINUB, launched a Peacebuilding Fund project focusing on the professionalization of the intelligence services through training and revision of the relevant legal framework, with a view to placing the intelligence service under more effective parliamentary control.

36. Marked progress was achieved in several other priority areas of security sector reform through the implementation of projects financed by the Peacebuilding Fund. On 4 August, training of the national defence forces in peacekeeping, code of conduct, human rights, gender and HIV/AIDS commenced, and is expected to be completed in March 2009. The number of military barracks to be renovated in the context of the Peacebuilding Fund project providing support for quartering of the national defence forces increased from 14 to 17, thanks to support from the Netherlands, and is currently on target to be completed by February 2009. This will allow better command and control over troops and their weaponry, and limit their contact with civilians. Furthermore, out of 715 internally displaced families accommodated in military barracks during the war, 625 have been resettled.

37. Radio-equipped vehicles and office equipment were provided to provincial police stations, improving logistical support and the presence of the police in rural areas. BINUB and the United Nations Development Fund for Women facilitated the establishment of specialized gender units in four provincial police headquarters. BINUB also supported the Office of the Inspectorate General of Police through a project aimed at reinforcing its capacity to ensure internal control and accountability mechanisms to prevent corruption and human rights abuses by members of the Burundian national police. Several vehicles and office equipment and materials have been provided to the Office of the Inspectorate General and training of staff on police investigation techniques and internal control mechanisms was conducted.

38. The downsizing process in order to "rightsize" the national army and police to 25,000 and 15,000 elements, respectively, has remained paralysed since April. The process, under which an additional 4,300 elements are to be involuntarily demobilized and provided with reintegration assistance, stalled, pending progress on the integration of Palipehutu-FNL into national defence and security forces.

Disarmament, demobilization and reintegration

39. During the reporting period, some progress was made on the disarmament, demobilization and reintegration of ex-combatants and militias. This was, however, hampered by allegations of misuse of funds within the national demobilzation, reinsertion and reintegration programme and there remain approximately 27,300 elements who still need to participate in the process. Among these are the 21,100 reported Palipehutu-FNL elements, 2,155 of whom are assembled in the Rugazi assembly area under the protection of the African Union Special Task Force, as well as the 4,300 security service elements who are to be demobilized and reinserted into civilian life. Moreover, further to two Presidential decrees issued on 18 and 19 August 2008, a decision was taken to include in the disarmament, demobilization and reintegration programme 3,321 alleged Palipehutu-FNL dissidents who are currently encamped in Bubanza Province, under the protection of the national defence forces.

40. On 15 September, an assessment mission under the World Bank multi-country demobilization and reintegration programme confirmed that the regional programme will end on 31 December, resulting in the termination of the current funding mechanism for the Burundian national demobilization programme. However, some residual funds are still available for demobilization if progress in the disarmament demobilization and reintegration process is made before a cut-off date of the end of December. The World Bank has confirmed that $10 million should be available by April 2009 through a World Bank International Development Association loan for a new trust fund mechanism specifically for Burundi. While the Government continues its dialogue with partners on this new mechanism, it has been restructuring its national agency and re-evaluating its national demobilization and reintegration programme. Working with the World Bank and UNDP, BINUB is supporting the Government to develop a new national strategy for disarmament, demobilization and reintegration. This strategy would address not only the demobilization and reintegration of the Palipehutu-FNL combatants, but also sustainable community-based reintegration of all demobilized combatants and certain linkages between disarmament, demobilization and reintegration and security sector reform. It should also be noted that the mandate of the African Union Special Task Force will expire on 31 December 2008, as does that of the South African Facilitation. Unless the Special Task Force mandate is extended, there will be no neutral force to provide protection to Palipehutu-FNL combatants assembled in the Rugazi assembly area, which could seriously affect the willingness of Palipehutu-FNL to participate in the disarmament, demobilization and reintegration process.

Small arms

41. The issue of proliferation of small arms remained a serious concern for the Government, the population and international partners. On 26 May, the Commission on Civilian Disarmament and Combating the Proliferation of Small Arms was established by presidential decree, expanding the mandate of the previous body to include a general prohibition on arms. In late August, the Commission, in partnership with BINUB and UNDP, drafted a revised law on small arms and light weapons in an effort to harmonize Burundian law with the Nairobi Declaration on the Problem of the Proliferation of Illicit Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa. The law is now under review by relevant ministries prior to submission to Parliament.

42. Progress was made in arms destruction at sites constructed with BINUB's assistance. A total of 2,094 small arms and light weapons have been destroyed since 1 May 2008, bringing the tally to approximately 6,000 light weapons destroyed this year. Throughout the provinces, the police continued to conduct house-to-house searches and cordon operations to confiscate illegal arms.

43. In accordance with the 2004 Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction, teams from the Burundian mine action coordination centre continue to work towards clearing the remaining 4 per cent of estimated risk zones in Bubanza Province.

Human rights

44. The incidence of serious human rights violations, which had sharply increased in April during the hostilities, remained high during the following months. Recently, a growing trend of harassment of representatives of civil society, trade unions and opposition parties by the Burundian authorities has been observed, including arbitrary arrest and detention.

45. Impunity remained an issue of concern. Only a fraction of recorded human rights violations were investigated and only a small number of human rights violators were prosecuted and sentenced.

46. Regarding the summary executions committed at Ruvubu national park, Muyinga Province, in 2006, on 23 October a military court sentenced the main defendant to death in absentia, while 14 other defendants received prison sentences. Another nine of the accused were acquitted. In the case of the four summary executions committed in August 2006 in Kinama commune, Bujumbura Mairie Province, public hearings were held on 13 November and the tribunal postponed the case until January 2009. In the case of the alleged torture of 22 persons by a special police unit in Rutegama commune, Muramvya Province, in 2007, the three accused policemen appeared before the court in October and November and hearings are expected to resume after deliberations on preliminary motions. There were no new developments regarding the 2004 Gatumba massacre. In the 2001 murder case of Kassy Manlan, the former representative of the World Health Organization in Burundi, all defendants were acquitted by the Supreme Court on 12 June.

47. Since mid-August, the Government has increasingly taken measures that have been perceived as limiting freedom of assembly, as described above, and freedom of expression. With regard to the latter, legal actions have been initiated against non-governmental organizations, media bodies, trade unions and political parties who express opposition views. At least six persons are currently in prison on charges of defamation of the State or ruling party officials. Since August, civil society representatives have voiced protests against these actions.

48. The Optional Protocol to the International Covenant on Civil and Political Rights may be examined during the current parliamentary session, following a request by the President that the law ratifying the Protocol, which was adopted during the last session, be reviewed.

49. Sexual violence remained an issue of serious concern. BINUB participated in organizing a high-level conference on strategies to combat sexual violence, held from 17 to 19 June in Goma, Democratic Republic of the Congo. Moreover, BINUB and the United Nations Children's Fund (UNICEF) supported the Government in the elaboration of a draft law on violence against women. BINUB also continued to participate in monitoring the implementation of the national strategy to combat sexual violence and abuse against women and children and recommended that activities and measures at the local level be harmonized.

50. BINUB conducted numerous activities to raise awareness of human rights among representatives of the Government, security forces, media, civil society and the population. BINUB, in close collaboration with the Government, is carrying out activities within the framework of the sixtieth anniversary of the Universal Declaration of Human Rights, which will culminate in a national event on 10 December.

51. Regarding the establishment of a national independent human rights commission, a draft law has been under review by an inter-ministerial committee since May. Following its review, the committee will transmit the draft to the National Assembly and Senate for adoption. BINUB continues to support this process.

52. By its resolution 9/19 adopted in September 2008, the Human Rights Council extended the mandate of the Independent Expert on the situation of human rights in Burundi until the creation of a national and independent human rights commission. At the same session, the Independent Expert presented his report (A/HRC/9/14), which covered his visit to Burundi from 29 June to 12 July. In his report, the Independent Expert noted that the overall human rights situation had deteriorated and he issued a number of recommendations to the Government and to the international community.

53. Burundi will be considered at the third session of the universal periodic review mechanism in the Human Rights Council on 2 and 4 December 2008. BINUB assisted the different stakeholders in preparing for this exercise, during which a report submitted by the Government will be reviewed. The outcome report, expected to be adopted by the Human Rights Council after the exercise, will include a set of recommendations.

Justice sector reform

54. The submission of the revised draft criminal procedure code to the National Assembly and Senate was delayed pending its translation into Kirundi in accordance with the Constitution. The revised draft criminal code has been on the parliamentary agenda since February 2007. It is scheduled to be examined during the third parliamentary session, which started on 6 October.

55. Seventeen new magistrate courts are under construction and will be equipped in the framework of the justice project funded by the Peacebuilding Fund and Luxembourg. Despite some delays, the project should be completed by the end of the year.

56. Prison overcrowding remains a high-priority concern and led to several disturbances in provincial prisons during the reporting period. In conjunction with the Ministry of Justice, BINUB organized a series of seven mobile court sessions to help accelerate court proceedings and decrease the number of pretrial detainees. BINUB also trained, in collaboration with the Director General of Penitentiary Affairs, 120 civilian and police prison personnel on the Standard Minimum Rules for the Treatment of Prisoners and other international human rights instruments, as well as on professional ethics.

57. In addition, BINUB implemented strategic initiatives designed to strengthen the capacity of Burundian magistrates. First, 254 magistrates, including 51 women, have been trained throughout the country on the application of international human rights instruments in criminal legal proceedings under Burundian law. Second, approximately 1,000 magistrates were trained in judicial ethics. Third, a month-long train-the-trainers course on court management and ethics was organized for 12 magistrates, who, in turn, will train approximately 120 judicial authorities by the end of 2008.

58. In the area of juvenile justice, BINUB organized a series of sensitization workshops in Ngozi Province. Participants included 970 members of local child protection committees. Moreover, radio programmes and announcements were broadcast in the region to highlight special concerns relating to juvenile justice. Subsequently, 11 juvenile detainees were released.

Transitional justice

59. In my previous report, I expressed concern about the lack of progress towards the establishment of transitional justice mechanisms. The reporting period witnessed advances in the preparation of the national consultations on the establishment of transitional justice mechanisms. In August, the Peacebuilding Fund project to support these national consultations established a technical follow-up committee, which is composed of members of the Government, civil society, international partners, the United Nations and members of the Tripartite Steering Committee. The technical follow-up committee adopted the national consultation project's first detailed quarterly workplan prepared by BINUB.

60. From 8 to 10 October, BINUB, in collaboration with the International Center for Transitional Justice, conducted an in-depth training workshop for members of the Tripartite Steering Committee and the technical follow-up committee in charge of the national consultations. In addition, BINUB facilitated regular meetings of a civil society forum to monitor the national consultation process. The national consultations are scheduled to begin in early 2009.

Child protection

61. The child protection situation gradually improved during the reporting period. However, serious violations of children's rights continued to be reported, including many cases of sexual violence against young girls. Of the reported cases, only a small number of violators were prosecuted and sentenced. BINUB and UNICEF continued to carry out capacity-building activities and participated in the country task force on monitoring and reporting serious violations of children's rights.

62. BINUB and UNICEF closely monitored the situation of children associated with armed groups in Burundi. Following the identification and separation of 220 children associated with the alleged Palipehutu-FNL dissidents, the children were reunified with their families and communities in June and July. In October, Palipehutu-FNL Chairman Rwasa refused to release the children associated with his movement until its political demands were met. BINUB and UNICEF continued their advocacy for the immediate and unconditional release of all children associated with Palipehutu-FNL.

63. The detention of children in the same prison facilities as adults continued to be of concern. BINUB and UNICEF, together with partners of the juvenile justice platform, which comprises the Ministry of Justice, the Office of the Prosecutor and national and international non-governmental organizations, prepared inputs on juvenile justice legal standards to be included in the revised criminal code and criminal procedure code.

Gender

64. In accordance with Security Council resolution 1325 (2000), BINUB continued its monitoring and training activities on women's protection, rights and specific needs, as well as the promotion of women's participation in peacebuilding activities. The midterm review of projects funded by the Peacebuilding Fund indicated that these projects were successful in integrating a gender perspective. As a result of this review, it was decided to intensify peacebuilding activities that specifically target women, in particular capacity-building activities.

65. BINUB supported elected female representatives at the communal, provincial and national levels through training in lobbying techniques and the establishment of a women's parliamentary caucus. On 29 October, the caucus held its constituent assembly during which its members committed to playing a larger role in addressing peace consolidation challenges and drafting an action plan on legislative matters of interest to women in both houses of Parliament.

66. On 20 June, BINUB began providing training to high-ranking national defence force officers on gender equality and the prevention of violence against women. Within the Peacebuilding Fund project on strengthening the role of women in reconciliation, BINUB also assessed difficulties faced by the 65 women among the alleged Palipehutu-FNL dissidents in the Randa and Buramata sites, Bubanza Province, and recommended specific support measures.

IV. Humanitarian situation

67. Significant increases in prices for basic commodities and seeds continued to have a negative impact on food security. Climatic factors and lack of seeds, which continued to affect harvests, aggravated the already fragile situation.

68. To enhance the preparedness of the humanitarian country team, a workshop on humanitarian reform was held on 24 September, which led to the formal adoption of the cluster approach in Burundi.

69. Progress has been achieved in refugee returns and community recovery, thanks to funding from the Central Emergency Response Fund. United Nations agencies are working to deliver a comprehensive and harmonized aid package to returning refugees and persons expelled from the United Republic of Tanzania, as well as vulnerable host populations. Since June, some 57,000 refugees have returned to Burundi. This includes the return of 19,848 former refugees who fled the country in 1972. The return rate of Burundian refugees sharply increased in 2008, owing to the closing of camps in the United Republic of Tanzania as well as the beginning of the organized return of long-term refugees. Only two camps for Burundian refugees remain open in the United Republic of Tanzania, hosting approximately 50,000 refugees who fled Burundi in the 1990s. In August, the Office of the United Nations High Commissioner for Refugees (UNHCR), in collaboration with the European Commission, announced their support for the naturalization of 76,000 of the 172,000 Burundian refugees who want to remain in the United Republic of Tanzania. To date, some 6,427 Burundians have been expelled from the United Republic of Tanzania where they were residing illegally. Those expelled also received support from UNICEF and are being resettled alongside returning refugees.

70. The increased rate of refugee returns, combined with an influx of Burundians expelled from the United Republic of Tanzania, has led to an increased need for reintegration activities during the reporting period. Access to land remains the most important reintegration challenge, which primarily affects the main provinces of return, notably Makamba, Muyinga and Ruyigi. More than 80 per cent of former 1972 refugee returnees do not have access to land upon return, mostly because their family land has been redistributed by the authorities or occupied since the 1970s. This situation poses a security risk and has given rise to conflicts between current land occupants and returnees who lay claim to their old land holdings. UNHCR and the Government are providing temporary shelter to these returnees.

71. The Government's National Commission for Land and Other Assets is registering land and property conflicts countrywide and is engaged in finding amicable solutions. On 29 October, the Commission announced that, since its establishment in 2006, it had registered 10,451 cases of land disputes and that 2,211 of those cases had already been resolved. BINUB and UNHCR have supported the Commission through capacity-building in the framework of a Peacebuilding Fund project. Furthermore, the Government's Inter-Ministerial Committee on Land Reform held national consultations in August involving local and national actors. Those consultations culminated in the publication of the Government's land reform strategy, which included updating land regulations and legislation, modernization of land management services, decentralization of land management, development of sustainable solutions for landless persons and coordination of land policy implementation.

V. Economic situation

72. Burundi's real growth rate for gross domestic product is estimated at 4.5 per cent for 2008, exceeding the 2007 growth rate but remaining below the 6.6 per cent forecast. The inflation rate rose to 28.6 per cent in June owing to the increase in fuel prices and basic commodities. The global economic recession is expected to affect the demand for Burundian exports. On 26 September, the World Bank announced the disbursement of $10 million to assist in mitigating the impact of the food crisis.

73. A mission of the International Monetary Fund (IMF) in June noted that Burundi's structural reform process remained slow, while good progress had been made in monetary and fiscal reforms. For its part, the World Bank indicated that Burundi could fulfil the requirements to access debt relief under the Heavily Indebted Poor Countries Initiative by January 2009. On 4 August, the World Bank approved a country assistance strategy for 2009-2012 for an estimated amount of $309 million.

74. The first annual review of the poverty reduction strategy paper, which is currently being finalized, indicated delays in reform of the coffee sector, demobilization and the programme for macroeconomic stability. On 7 July, the Government and IMF signed a new programme to support the implementation of the poverty reduction strategy paper. This followed the approval in May and June of three new World Bank projects, for a total of $80 million, on water and electricity infrastructure, the fight against HIV/AIDS and agricultural rehabilitation.

75. At the request of the Government and development partners, UNDP established a basket-fund in July to enhance the Government's donor coordination capacities, including technical support to the permanent secretariat of the National Committee for Aid Coordination.

VI. Observations

76. Burundi has made commendable advances in key areas for peace consolidation. However, the country continues to face serious challenges, primarily emanating from the stalled implementation of the Comprehensive Ceasefire Agreement, enduring mistrust among political actors, increased restrictions on public liberties, slow progress in fighting impunity, persistent human rights violations, insecurity and high levels of poverty.

77. The end of hostilities between the Government and Palipehutu-FNL in May and the return to Bujumbura of the Palipehutu-FNL leadership were welcome developments. However, the parties have yet to overcome the differences that have blocked the implementation of the September 2006 Comprehensive Ceasefire Agreement. Palipehutu-FNL's insistence on being recognized as a political party under its current name is one of the reasons for the current impasse, with the risk for peace and stability that this may imply. The impasse in the peace process is deepening and the risks of renewed confrontation are intensifying. I regret that, despite internal efforts and external support, the parties have not yet been able to muster the political will to overcome their differences and look to the future for the benefit of their country. I urge the Government and Palipehutu-FNL to spare no efforts to reach the necessary difficult compromises on the issues that have so far hindered the implementation of the Comprehensive Ceasefire Agreement. I also call on both parties to heed the recent messages of the leaders of the Regional Peace Initiative.

78. Children associated with Palipehutu-FNL should not be held hostage to the slow pace of the talks nor that of the demobilization process. I urge the leaders of the movement to release them immediately and unconditionally.

79. I wish to express my gratitude to the African Union, the Regional Peace Initiative, the South African Facilitation and the Political Directorate for their continued engagement in supporting Burundi's peace consolidation efforts. Although the mandate of the Facilitator and the African Union Special Task Force will expire on 31 December 2008, efforts of the region and the international community remain essential for the conclusion of the implementation of the Comprehensive Ceasefire Agreement. The personal involvement of President Museveni and President Kikwete, respectively Chairman and Vice-Chairman of the Regional Peace Initiative, and that of President Motlanthe, along with Facilitator Charles Nqakula, remains crucial in the light of the continuing deadlock and the fast approaching deadline of 31 December. I strongly encourage the African Union and the Regional Peace Initiative leaders to persist in their efforts to re-energize the peace process in order to complete the implementation of the Comprehensive Ceasefire Agreement by 31 December 2008. The United Nations stands ready to support them. The engagement of the Regional Peace Initiative and the Facilitation will be necessary beyond that date in order to continue to act as guarantors of this fragile peace process.

80. I am encouraged by the resumption of legislative activity in Parliament. At the same time, I call on the Government of Burundi and all national actors to uphold their commitment to the principles enshrined in the Constitution, and opt for dialogue in the resolution of the issues that divide them. BINUB continues to reinforce national capacities to prevent and peacefully resolve conflict as part of its peacebuilding mandate and the Mission is ready to support or facilitate such dialogue.

81. I am concerned about the increasing number of arrests of members of the political opposition and representatives of civil society and the media. I urge the authorities to respect the right to freedom of expression and assembly enshrined in the Constitution and the Universal Declaration of Human Rights. To that end, I call on the authorities to allow peaceful assemblies, to desist from detaining persons for expressing their beliefs or opinions and to guarantee due process and fair judicial review for all detainees.

82. While human rights violations continue to be of serious concern, I commend the Government's recent steps towards fighting impunity. The conviction of 15 suspects involved in the Muyinga massacre is an encouraging step in the right direction. I am also encouraged by the Government's decision to start the prosecution of those involved in the Kinama killings of 2006. I urge the Government to prosecute all those responsible for equally grave human rights violations, including those involved in the Gatumba massacre of 2004.

83. I welcome the progress achieved during this period in the preparations for the national consultations on the establishment of transitional justice mechanisms. The timely establishment of these mechanisms is critical to laying the foundation for national reconciliation.

84. The high incidence of sexual violence in Burundi remains of concern. I urge the Government to spare no efforts to address this issue, including through new legislation, fighting against impunity in sexual violence cases and improving legal and social support for victims of sexual violence.

85. The overall security situation in Burundi has registered some improvement, but the general population still faces widespread criminality. In this connection, I deplore the attacks against United Nations personnel in July. I am heartened by the assurances by the Government and its declared intention to bring to justice those responsible for those attacks and prevent their reoccurrence.

86. The Peacebuilding Commission's engagement in Burundi has provided valuable support to the promotion of peace and stability and has helped to ensure that international attention has remained focused on the country. In this regard, I would like to emphasize BINUB's role in support of the Peacebuilding Commission, as well as the roles of the Mission and the United Nations system in assisting the Government in an integrated manner in addressing peacebuilding priorities that have become more urgent in the current context.

87. The Peacebuilding Fund projects have proved to be an important vehicle for implementing key aspects of BINUB's peace consolidation mandate. I welcome this development and wish to acknowledge the contribution of BINUB, with other members of the United Nations system, in the implementation of these projects. I urge the Government, with the support of the Peacebuilding Commission, BINUB

and other international partners, to mobilize additional resources to sustain the initial impact that some of these projects seem to have achieved.

88. In collaboration with all relevant partners, BINUB will continue to assist the Government to enact sector-wide security reforms and complete the disarmament, demobilization and reintegration process. A new disarmament, demobilization and reintegration strategy is needed to contribute to short-term stabilization, while preparing for the longer term sustainable reintegration of former combatants. I encourage the Government, the World Bank and other partners to establish expeditiously, with the support of BINUB and UNDP, a new Burundi-specific demobilization and reintegration funding mechanism following the closing of the World Bank multi-country demobilization and reintegration programme on 31 December. While these efforts are ongoing, measures must also be taken by international partners, led by the World Bank, to ensure there is no gap in resources to address urgent disarmament, demobilization and reintegration needs in the short term, should a breakthrough in the peace process occur. I would also strongly encourage the African Union to extend the mandate of its Special Task Force, which has played a key role in reassuring Palipehutu-FNL that they will be protected during their participation in the disarmament, demobilization and reintegration process.

89. I welcome the Government's establishment of the Permanent National Independent Electoral Commission, and I look forward to the appointment of its members through an inclusive process, which would be an important first step towards building confidence in the coming electoral process. In the meantime, I exhort the Government to take all the necessary measures to create an environment conducive to the holding of free, fair and peaceful elections. The United Nations stands ready to assist.

90. In the light of the continuing challenges and the uncompleted tasks identified in the present report, I recommend that the Security Council extend BINUB's mandate for an additional 12-month period following the expiration of its current mandate on 31 December 2008. However, in the light of the evolving situation on the ground, it would be important for the Council to conduct a review of the mandate by June 2009.

91. In support of the proposed review of the mandate in June 2009, I intend to dispatch an integrated technical assessment mission to Burundi in early 2009, which will consult all stakeholders on the ground and develop recommendations on the modalities for the future direction of BINUB, taking into account progress made and the remaining challenges at the time. These recommendations will be presented in my report in May 2009, including the timing and conditions for a possible transfer of responsibility for BINUB from the Department of Peacekeeping Operations to the Department of Political Affairs, with the latter continuing to receive the necessary support from UNDP and the Peacebuilding Support Office, given the primary focus of BINUB's mandate on supporting the regional facilitation efforts and on peacebuilding and peace consolidation.

92. Should the Security Council concur with the above recommendation on the mandate extension, BINUB will continue, in collaboration with other partners in the peace process, to play an active political role in supporting the Regional Peace Initiative, the Facilitation and the African Union to complete this final and crucial leg of Burundi's peace process.

93. Taking into account Security Council resolutions 1719 (2006) and 1791 (2007), and given the interconnectedness of the various conflicts in the region, the current provisions for cooperation between BINUB and the United Nations Organization Mission in the Democratic Republic of the Congo should be strengthened.

94. Finally, I would like to express my sincere gratitude to all BINUB personnel, who, under the leadership of my Executive Representative for Burundi, Youssef Mahmoud, have continued to work tirelessly for the cause of peace in Burundi, at times under difficult circumstances. My appreciation equally goes to all other United Nations personnel for their commendable efforts to integrate their actions in support of peace consolidation in Burundi and the agenda for its early recovery. Finally, I would like to commend concerned non-governmental organizations and bilateral and multilateral partners for their steadfast commitment and generous contributions to Burundi.